IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Southern Division)

CONNECTICUT GENERAL LIFE INSURANCE COMPANY, *et al.*,	*	
	*	
Plaintiffs/Counter-Defendants,	*	
v.	*	Civil Action No. DKC-14-2376
ADVANCED SURGERY CENTER OF BETHESDA, LLC, *et al.*,	*	
Defendants/Counter-Plaintiffs.	*	

* * * * * * * * *

COUNTERCLAIM

Defendants/Counter-Plaintiffs Advanced Surgery Center of Bethesda, LLC; Bethesda Chevy Chase Surgery Center, LLC; Deer Pointe Surgical Center, LLC; Hagerstown Surgery Center, LLC; Leonardtown Surgery Center, LLC; Maple Lawn Surgery Center, LLC; Maryland Specialty Surgery Center, LLC; Monocacy Surgery Center, LLC; Piccard Surgery Center, LLC; Riva Road Surgical Center, LLC; SurgCenter at National Harbor, LLC d/b/a Harborside Surgery Center; SurgCenter of Glen Burnie, LLC; SurgCenter of Greenbelt, LLC; SurgCenter of Silver Spring, LLC; SurgCenter of Southern Maryland, LLC; SurgCenter of Western Maryland, LLC; SurgCenter of White Marsh, LLC; Timonium Surgery Center, LLC; Upper Bay Surgery Center, LLC; and Windsor Mill Surgery Center, LLC (collectively "the ASCs" or "the Counter-Plaintiff ASCs") countersue Plaintiffs Connecticut General Life Insurance Company and Cigna Health and Life Insurance Company (collectively "Cigna"). The ASCs allege as follows:

INTRODUCTION

1. Counter-Plaintiffs are twenty ambulatory surgical care facilities doing business in the State of Maryland. At the ASCs, licensed doctors perform a variety of surgical procedures on an outpatient basis.

2. The ASCs provide numerous benefits to their patients and the healthcare industry as a whole when compared with hospitals. Among them are lower costs for the same care, lower risks of infection, greater flexibility in scheduling procedures, and greater patient satisfaction.

3. The ASCs' claims herein arise from Cigna's refusal to pay claims for medically necessary services provided by the ASCs to participants in and beneficiaries of health insurance plans insured and/or administered by Cigna ("Cigna's insureds" or "Cigna-insured patients") even though the insureds' health insurance plans covered those services.

4. The ASCs bring this action pursuant to the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1132, as the assignees of their patients' rights under that law, and under state law on their own behalf.

5. By its unlawful refusal to pay the ASCs for the treatment of Cigna's insureds, Cigna has damaged its insureds by depriving them of their right to choose their health care provider and preventing them from using insurance benefits for which they have paid premiums. Cigna has also damaged the ASCs by depriving them of payment to which they are entitled for the services they provided to Cigna's insureds.

PARTIES

6. Counter-Plaintiff Advanced Surgery Center of Bethesda, LLC is a Maryland limited liability company with its principal place of business in Bethesda, Maryland.

7. Counter-Plaintiff Bethesda Chevy Chase Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Bethesda, Maryland.

8. Counter-Plaintiff Deer Pointe Surgical Center, LLC is a Maryland limited liability company with its principal place of business in Salisbury, Maryland.

9. Counter-Plaintiff Hagerstown Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Hagerstown, Maryland.

10. Counter-Plaintiff Leonardtown Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Leonardtown, Maryland.

11. Counter-Plaintiff Maple Lawn Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Fulton, Maryland.

12. Counter-Plaintiff Maryland Specialty Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Linthicum, Maryland.

13. Counter-Plaintiff Monocacy Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Frederick, Maryland.

14. Counter-Plaintiff Piccard Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Rockville, Maryland.

15. Counter-Plaintiff Riva Road Surgical Center; LLC is a Maryland limited liability company with its principal place of business in Annapolis, Maryland

16. Counter-Plaintiff SurgCenter at National Harbor, LLC d/b/a Harborside Surgery Center is a Maryland limited liability company with its principal place of business in National Harbor, Maryland.

17. Counter-Plaintiff SurgCenter of Glen Burnie, LLC is a Maryland limited liability company with its principal place of business in Glen Burnie, Maryland.

18. Counter-Plaintiff SurgCenter of Greenbelt, LLC is a Maryland limited liability company with its principal place of business in Greenbelt, Maryland.

19. Counter-Plaintiff SurgCenter of Silver Spring, LLC is a Maryland limited liability company with its principal place of business in Silver Spring, Maryland.

20. Counter-Plaintiff SurgCenter of Southern Maryland, LLC is a Maryland limited liability company with its principal place of business in Clinton, Maryland.

21. Counter-Plaintiff SurgCenter of Western Maryland, LLC is a Maryland limited liability company with its principal place of business in Cumberland, Maryland.

22. Counter-Plaintiff SurgCenter of White Marsh, LLC is a Maryland limited liability company with its principal place of business in Baltimore, Maryland.

23. Counter-Plaintiff Timonium Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Lutherville, Maryland.

24. Counter-Plaintiff Upper Bay Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Elkton, Maryland.

25. Counter-Plaintiff Windsor Mill Surgery Center, LLC is a Maryland limited liability company with its principal place of business in Windsor Mill, Maryland.

26. Counter-Defendant Connecticut General Life Insurance Company ("CT General") is a Connecticut corporation with its principal place of business in Bloomfield, Connecticut. CT General does business nationally, including in the State of Maryland. At all times relevant to the allegations herein, CT General acted as the administrator of the health benefit plans that insured the ASCs' patients whose medical treatment is at issue in this case. In some cases, CT General also acted as the insurer of those plans.

27. Counter-Defendant Cigna Health and Life Insurance Company ("CHLIC") is a Maryland corporation with its principal place of business in Bloomfield, Connecticut. At all times relevant to the allegations herein, CHLIC acted as the administrator of the health benefit plans of the ASCs' patients whose medical treatment is at issue in this case. In some cases, CHLIC also acted as the insurer of those plans.

JURISDICTION AND VENUE

28. This Court has subject matter jurisdiction over this action pursuant 28 U.S.C. §§ 1331 and 1367. The ASCs' claims pursuant to ERISA arise under federal law, and its claims pursuant to state law are part of the same case or controversy within the meaning of Article III of the United States Constitution. Jurisdiction over the ASCs' claims pursuant to ERISA is also proper under § 502(e) of ERISA, 29 U.S.C. § 1132(e).

29. Venue is appropriate in this Court under 28 U.S.C. § 1391 and 29 U.S.C. § 1132(e)(2) because Cigna conducts a substantial amount of business in this District, including marketing, advertising, and selling insurance products, and administering health plans.

FACTS APPLICABLE TO ALL COUNTS

Cigna's Health Benefit Plans

30. Cigna insures and administers health benefit plans that differentiate between coverage for medical treatment provided by (a) in-network providers who have negotiated discounted rates with Cigna and (b) out-of-network providers.

31. The ASCs have not contracted with Cigna, so they are considered out-of-network providers under Cigna's health benefit plans.

32. Cigna charges its insureds higher premiums for plans with out-of-network benefits. Accordingly, health insurance plans that permit their participants and beneficiaries to seek medical

services from out-of-network healthcare providers are more expensive than plans that limit coverage to care provided by in-network providers.

33. The Cigna-insured and Cigna-administered plans at issue permit their participants and their beneficiaries to obtain healthcare from out-of-network or non-participating providers. They also provide for how and how much Cigna is required to pay for out-of-network services.

The ASCs' Billing Procedures

34. The ASCs disclose to their Cigna-insured patients that the ASCs are out-of-network providers.

35. Prior to receiving care, the ASCs' Cigna-insured patients sign forms assigning to the ASC the patient's rights and benefits under their Cigna health insurance plan. The rights assigned include the right to appeal benefit denials and to sue. These assignments confer standing on the ASCs to bring this action with regard to both ERISA and non-ERISA plans.

36. Each of the ASCs has a policy of attempting to match its patients' in-network cost contribution requirements (i.e., the patients' in-network costs for co-payments, deductibles and co-insurance), so that the patient's initial out-of-pocket cost is the same as if he or she was receiving services at an in-network surgical center (the "price-matching policy").

37. The ASCs' price-matching policy, variations of which are commonly practiced by out-of-network healthcare providers across the United States, makes medical care affordable for their patients and enhances their patients' choice of medical provider.

38. Pursuant to the assignment of benefits from its Cigna-insured patients, the ASCs timely submit claims to Cigna for the normal and reasonable cost of the medical services provided to Cigna's insureds.

39. In the claims they submit to Cigna, the ASCs disclose to Cigna that the ASCs have reduced their patients' cost-sharing responsibilities (for deductibles and co-payments) to match the patients' in-network rates.

40. The ASCs' Cigna-insured patients remain responsible for the full amount of the ASCs' charges if Cigna does not pay their claims. Prior to providing care, the ASCs require their patients to sign forms acknowledging those responsibilities. The ASCs have not waived and do not waive their patients' responsibility to pay for the treatment they have received.

Cigna's Wrongful Denial of Benefits

41. Cigna has refused to pay claims for the medical services provided by the ASCs to Cigna's insureds.

42. Cigna does not dispute that its insureds have the right to obtain healthcare from out-of-network providers like the ASCs, nor does it dispute that the ASCs have rendered medically necessary services to its insureds.

43. Cigna's refusal to pay is made under the guise of a single exclusion in each of the health benefit plans it administers. The exclusion provides that Cigna will not pay for "charges for which you [the insured] are not obligated to pay or for which you [the insured] are not billed or for which you [the insured] would not have been billed except that they were covered under this plan."

44. Cigna erroneously asserts that, because of the ASCs' price-matching policy, described in paragraph 36, the policy exclusion above eliminates Cigna's obligation to pay any amount for the medically necessary care provided by the ASCs to Cigna's insureds.

45. In refusing to pay its insureds' claims for payment for medically necessary services from the ASCs, Cigna has misconstrued and/or misapplied the language in its benefit plans and ignored its duty of loyalty to its insureds.

46. Cigna's misconstruction and/or misapplication of the exclusion in its plan documents renders the out-of-network benefits for which its subscribers have paid additional premiums illusory.

47. Cigna's misconstruction and/or misapplication of its plans' language is specifically designed to (a) allow it to avoid its obligation to pay benefits, (b) discourage its plan participants and beneficiaries from using out-of-network services, and (c) coerce out-of-network providers into becoming in-network providers.

48. By its misconstruction and/or misapplication of its plans' language, Cigna increases its profits through "shared savings" with its employer-customers. Upon information and belief, many of Cigna's plan sponsors compensate Cigna, in part, by allowing Cigna to share some of the plan's savings.

49. Cigna's arbitrary determinations and wrongful denials of benefits increase healthcare costs to its plan participants and beneficiaries and reduce the healthcare providers available to them. Cigna's determinations and denials breach its duty to act "*solely* in the interest of its participants and beneficiaries" and "*for the exclusive purpose* of (i) providing benefits to its participants and their beneficiaries," without regard to its own financial interest. 29 U.S.C. § 1104(a)(1) (emphasis added).

50. Upon information and belief, Cigna does not require its in-network providers to submit proof of the patient's payment as a condition of Cigna's payment of claims, even though

the terms of the plans governing proof of loss make no distinction between in-network providers and out-of-network providers.

51. On behalf of their Cigna-insured patients, the ASCs have timely filed administrative appeals with Cigna, explaining their price-matching policy and the fact that the patients remain responsible for the full cost of the services they have received. Relying on the exclusion quoted in Paragraph 43, above, Cigna has upheld its denials of the claims.

52. As part of their appeals on behalf of their Cigna-insured patients, the ASCs have requested the documents on which Cigna relies for its denial of benefits, including the insurance plan documents. Cigna has not provided any such documents.

53. Although the Counter-Plaintiff ASCs continue to appeal the denial of their claims, any claims for which the Counter-Plaintiff ASCs have not entered into or completed the appeals process should be deemed exhausted for purposes of ERISA because such an appeal would be futile. Cigna continues to either refuse to pay any amount of the ASCs' claims for services or to pay an amount substantially less than what it is obligated to pay to the ASCs.

Damages Sustained by the ASCs

54. Cigna has denied or improperly reduced payment for thousands of claims submitted by the ASCs based on its misconstruction and/or misapplication of its plan documents whenever an ASC discounts the amount that Cigna's insureds must pay out-of-pocket pursuant to the policy described in paragraph 36.

55. As of September 30, 2014, Advanced Surgery Center of Bethesda, LLC has lost more than $3,500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

56. As of September 30, 2014, Bethesda Chevy Chase Surgery Center, LLC has lost more than $3,500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

57. As of September 30, 2014, Deer Pointe Surgical Center, LLC has lost more than $500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

58. As of September 30, 2014, Hagerstown Surgery Center, LLC has lost more than $1,500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

59. As of September 30, 2014, Leonardtown Surgery Center, LLC has lost more than $600,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

60. As of September 30, 2014, Maple Lawn Surgery Center, LLC has lost more than $400,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

61. As of September 30, 2014, Maryland Specialty Surgery Center, LLC has lost $600,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

62. As of September 30, 2014, Monocacy Surgery Center, LLC has lost more than $75,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

63. As of September 30, 2014, Piccard Surgery Center, LLC has lost $2,000,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

64. As of September 30, 2014, Riva Road Surgical Center, LLC has lost more than $700,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

65. As of September 30, 2014, SurgCenter at National Harbor, LLC d/b/a Harborside Surgery Center, LLC has lost more than $2,500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

66. As of September 30, 2014, SurgCenter of Glen Burnie, LLC has lost more than $600,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

67. As of September 30, 2014, SurgCenter of Greenbelt, LLC has lost more than $300,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

68. As of September 30, 2014, SurgCenter of Silver Spring, LLC has lost more than $2,500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

69. As of September 30, 2014, SurgCenter of Southern Maryland, LLC has lost more than $500,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

70. As of September 30, 2014, SurgCenter of Western Maryland, LLC has lost more than $250,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

71. As of September 30, 2014, SurgCenter of White Marsh, LLC has lost more than $100,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

72. As of September 30, 2014, Timonium Surgery Center, LLC has lost more than $1,250,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

73. As of September 30, 2014, Upper Bay Surgery Center, LLC has lost more than $100,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

74. As of September 30, 2014, Windsor Mill Surgery Center, LLC has lost more than $600,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

75. As of September 30, 2014, the ASCs, combined, have lost more than $23,000,000 as a direct result of Cigna's misconstruction and/or misapplication of its plans' language.

76. The amounts of damages listed above continue to increase.

COUNT I
ERISA – CLAIM FOR BENEFITS AND CLARIFICATION OF RIGHTS PURSUANT TO 29 U.S.C. § 1132(a)(1)(B)

77. Counter-Plaintiffs incorporate by reference all of their allegations of fact set forth above as if set forth fully herein.

78. When an ERISA-governed benefit plan is insured by or administered by Cigna, such as those at issue here, Cigna must pay benefits to the plan's participants and beneficiaries or their assignees pursuant to the terms and methodology of the plan.

79. Cigna has acknowledged that "the vast majority of the plans under which the ASCs have sought benefits are governed by ERISA."

80. As the assignees of their patients' benefits under the patients' Cigna-insured or Cigna-administered health benefit plans, the ASCs are entitled to enforce the terms of those plans pursuant to 29 U.S.C. § 1132(a)(1)(B).

81. Cigna has breached the terms of its plans by arbitrarily denying or reducing payments due to the ASCs based on Cigna's misconstruction and/or misapplication of its plans' exclusion of "charges for which you [the insured] are not obligated to pay or for which you [the insured] are not billed or for which you [the insured] would not have been billed except that they were covered under this plan."

82. For each claim that was denied or reduced by Cigna pursuant to that exclusion, the relevant ASC seeks all unpaid benefits. The ASCs also seek prejudgment interest (calculated from the date each claim was initially submitted), costs, expenses, attorneys' fees, and any other relief this Court deems appropriate.

83. As the assignees of their patients' rights under their patients' Cigna-insured or Cigna-administered health benefit plans, the ASCs also seek a declaration from this Court clarifying their patients' rights to future benefits under the terms of the plans when the ASCs match their patients' in-network cost contribution requirements.

COUNT II
ERISA – BREACH OF FIDUCIARY DUTY
PURSUANT TO ERISA, 29 U.S.C. § 1132(a)(3)

84. Counter-Plaintiffs incorporate by reference all of the allegations of fact set forth above as if set forth fully herein.

85. As an insurer and administrator of health benefit plans governed by ERISA, Cigna is obligated to comply with ERISA's fiduciary duties.

86. Accordingly, Cigna must discharge its duties with respect to the plans at issue "*solely* in the interest of the participants and beneficiaries, and – (A) *for the exclusive purpose* of: (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses of administering the plan." 29 U.S.C § 1104(a)(1) (emphasis added).

87. Cigna violated this duty by reducing or denying benefits payable to the ASCs for care they provided to Cigna's plan participants and beneficiaries based on its misconstruction and/or misapplication of the exclusion for "charges for which you [the insured] are not obligated to pay or for which you [the insured] are not billed or for which you [the insured] would not have been billed except that they were covered under this plan."

88. Cigna reduced or denied benefits payable to the ASCs, as described above, to (a) allow it to avoid its obligation to pay benefits, (b) discourage Cigna's insureds from using out-of-network services, and (c) coerce out-of-network providers into becoming in-network providers.

89. Upon information and belief, when Cigna serves as a plan's administrator but not also as the plan's insurer, Cigna is compensated by the plan's sponsors based on "savings" that are calculated, in part, according to claims for medical services *not* paid to medical providers like the ASCs. As a result, by reducing or denying payment to the ASCs, Cigna increases its compensation from its plan sponsors at the expense of its participants and beneficiaries.

90. When Cigna serves as both a plan's insurer and its administrator, its profits are directly correlated with the amounts that it is able to avoid paying on claims by its participants and beneficiaries.

91. As a direct and proximate cause of Cigna's breach of its fiduciary duties, its plan participants and beneficiaries are responsible to pay the amounts that Cigna has wrongfully refused to pay for the care they received from the ASCs and will be subject to the ASCs' efforts to collect for the cost of that care over and above the deductible and co-payment they have already made, despite having paid additional premiums to Cigna for the right to receive care from out-of-network providers.

92. As the assignees of their patients' rights under ERISA, the ASCs are entitled to, and seek, an award in an amount equal to value of the services rendered to Cigna's insureds, but wrongfully withheld, as well as injunctive and declaratory relief.

COUNT III
ERISA – FAILURE TO PROVIDE INFORMATION IN VIOLATION OF 29 U.S.C. § 1132(c)(1)(B)

93. Counter-Plaintiffs incorporate by reference all of the allegations of fact set forth above as if set forth fully herein.

94. As the administrator of the health plans at issue, Cigna is required to maintain and provide plan participants and beneficiaries, or their assignees, certain information upon request.

95. Failing to provide such information renders Cigna civilly liable to its plan participants and beneficiaries, or their assignees.

96. On behalf of their Cigna-insured patients, the ASCs have requested documents that Cigna claims provide the basis for its refusal to reimburse the ASCs for services the ASCs have rendered.

97. Cigna has failed to provide the requested information to the ASCs.

98. As the assignees of their Cigna-insured patients, the ASCs are entitled to, and seek, the penalty provided for in 29 U.S.C. § 1132(c)(1)(B), as well as any other relief that this Court deems proper.

COUNT IV
BREACH OF CONTRACT

99. Counter-Plaintiffs incorporate by reference all of the allegations of fact set forth above as if set forth fully herein.

100. The ASCs treat patients who are insured by Cigna health benefit plans that are not governed by ERISA. As the assignees of those patients, the ASCs bring this claim for breach of contract.

101. Cigna agrees to insure individuals under non-ERISA plans in exchange for its receipt of premiums.

102. Upon information and belief, the terms of those agreements are memorialized in multiple places including the relevant plan documents.

103. Upon information and belief, the agreements expressly provide Cigna's insureds with the right to receive treatment from out-of-network providers such as the ASCs.

104. Upon information and belief, for out-of-network care, the agreements further provide that Cigna will pay a specific percentage of the lesser of (a) the actual billed charge, or (b) the usual and customary charge for a procedure based on another comparable benchmark.

105. Cigna has breached this agreement by denying or drastically reducing its payments for its insureds' claims for out-of-network services provided by the ASCs.

106. The ASCs have been damaged by Cigna's breach of contract and seek damages in an amount to be proved later. The ASCs also seek interest, costs, expenses, attorneys' fees, and any other relief that this Court deems proper.

COUNT V
UNJUST ENRICHMENT

107. Counter-Plaintiffs incorporate by reference all of the allegations of fact set forth above, as if set forth fully herein.

108. Cigna has repeatedly reduced or denied payment to the ASCs for care provided to Cigna's insureds based on its misconstruction and/or misapplication of certain language in its plan documents. Cigna has done so even though its insureds have paid additional premiums to Cigna for the right to receive out-of-network care if they so desire.

109. As a result of Cigna's wrongful reductions in, or denials of, payments to the ASCs, the ASCs have provided necessary medical care to Cigna's insureds at no cost to Cigna.

110. Upon information and belief, by reducing or denying payment to the ASCs, Cigna has been able to increase its own compensation in the form of plan savings by reducing or denying its payments to the ASCs.

111. It would be inequitable for Cigna to accept and retain those savings.

112. Accordingly, the ASCs seek an order from this Court awarding them the value of all services for which Cigna has reduced or denied payment, plus interest, costs, and any and all other relief to which this Court finds them entitled.

COUNT VI
PROMISSORY ESTOPPEL

113. Counter-Plaintiffs incorporate by reference all of the allegations of fact set forth above as if set forth fully herein.

114. Prior to providing care to many of Cigna's insureds, the ASCs sought and obtained confirmation from Cigna that the patient's health benefit plan permitted the patient to receive that care from the ASC, despite it being an out-of-network provider.

115. In each such case, Cigna specifically represented (either orally, in writing, or both) that the care would be covered by the patient's Cigna-insured or Cigna-administered health benefit plan.

116. Cigna reasonably expected that its confirmation of coverage would cause the ASC to render care to Cigna's insured, and the ASC reasonably relied on that confirmation.

117. Based on Cigna's representations, each of the ASCs provided medically necessary care to those Cigna-insured patients.

118. After the ASCs submitted claims for the services they provided, Cigna denied payment for numerous services rendered by the ASCs on the ground that the patient's Cigna-insured or Cigna-administered health benefit plan did not provide out-of-network benefits.

119. As a result, the ASCs have suffered financial losses by providing care to Cigna's insureds that is not covered under their patients' health benefit plans.

120. Those losses can only be avoided by enforcing Cigna's promise that the services would be covered by the patients' Cigna-insured or Cigna-administered health benefit plans.

PRAYER FOR RELIEF

WHEREFORE, Counter-Plaintiffs respectfully request that this Court enter judgment in their favor against Counter-Defendants and provide the following relief:

a. Compensatory damages in an amount to be determined, in excess of $1 million, including all amounts due for all services rendered by the ASCs to Cigna's insureds;

b. An order directing Cigna to recalculate and issue unpaid benefits to the ASCs that were not paid or that were reduced as a result of Cigna's unlawful activities;

c. Restitution in an amount to be determined;

d. A declaratory judgment stating that Cigna's actions violated ERISA and breached its obligations under its plan documents;

e. A declaratory judgment stating that Cigna is obligated to properly pay the claims submitted by the ASCs and that the plan exclusion referenced in Paragraph 43, above, does not apply to claims on behalf of the ASCs' patients;

f. An injunction to prevent continuation or recurrence of Cigna's unlawful conduct;

g. Interest on all such amounts since the time they became due, including interest under Maryland's prompt payment statute, Md. Code Ann., Ins. § 15-1005(f);

h. Attorneys' fees, costs, and expenses incurred in connection with these claims;

i. Liquidated damages provided for under any of the applicable plans;

j. Such other and further relief, at law and equity, as this Court deems just, proper, and appropriate.

JURY TRIAL DEMAND

Counter-Plaintiffs demand a trial by jury on all claims so triable.

Respectfully submitted,

/s/

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